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May 18, 2015

Senator Floyd Prozanski, Chair
Senate Judiciary Committee, Members

Re: **HB 3399 – Testimony in Support**

Dear Chair Prozanski and Members:

My name is Emily Oberdorfer, I'm an attorney based in Portland specializing in crimes and violations stemming from the vehicle code. I'm writing today in support of HB 3399, recordation of all justice and municipal court matters and establishing minimum educational requirements for judges.

I appear in justice and municipal courts almost weekly and while some of the judges are fair and impartial, many are not. In a few cases I have filed a motion asking to record the proceedings and had my motions denied. In one case, the judge stated that he did not want what happened in his court to be public record. In another case I had the judge order my court reporter out of the room when she began taking notes in short hand. I have had judges tell me that they know the citing officer to be honest when I catch them in a lie. I have seen judges set cases over when the officer failed to appear for trial and frequently see judges misstate the law.

At a Justice Court in February 2014 I had a client charged with violating ORS 811.130, Impeding Traffic. At the beginning of the trial I objected to the officer reading his script and asked that he be instructed to testify from personal knowledge after using his notes to refresh his recollection. I was asked for my authority, Rule 602 of the Oregon Evidence Code. I was overruled. During the course of the trial the officer testified that there was only one other vehicle on the road who was able to pass my client with no apparent difficulty. During my Motion for Judgment of Acquittal, I noted that the officer had not met the prima facie elements, venue, jurisdiction, wearing a badge etc. The judge noted that he knew the officer and instructed the Deputy District Attorney to reopen her case to establish those elements, a common occurrence in unrecorded courts. I pointed out to the judge that ORS 811.130 requires that there be traffic to impede and was told that would be a great issue on appeal. Appeals to circuit court cost hundreds of dollars not including attorney fees.

I have also had many cases in which whether or not a piece of evidence was received or a statement made during the evidentiary portion of the trial has been a deciding factor. If the matter had been recorded it would have been as easy as a clerk rewinding the tape, or FTR, to determine.

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Whenever I pick a jury for a criminal case, I ask for a show of hands of who has ever been pulled over and who fought the ticket. When I ask people why they didn't fight it, there is always someone who says something along the lines of, "traffic court is rigged".

Most people are going to make it through their lives without ever being charged with a crime. That means that traffic court and other violations are likely to be their only interaction with the criminal justice system. When they see receive obviously unfair treatment they are likely to lose faith in our criminal justice as a whole. I strongly believe that recording hearings and establishing minimum educational requirements will go a long way toward restoring faith in our criminal justice system and trust in our police officers and judiciary.

I am sorry I am not able to testify in person, if I can be of further assistance please don't hesitate to ask.

Best Regards,

Emily Oberdorfer